

**BEFORE THE  
CALIFORNIA ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:	)	Case No. 1A-2011-103
	)	
Xiao Hong Qi	)	
913 E. Vista Way	)	
Vista, CA 92084	)	
	)	
Acupuncture License No. AC-11857	)	
	)	
Respondent.	)	
_____	)	

**DECISION AND ORDER**

The attached Default Decision and Order is hereby adopted by the California Acupuncture Board, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on APR 02 2014.

IT IS SO ORDERED MAR 03 2014.

  
\_\_\_\_\_  
Michael Shi, L.Ac., Chair  
Acupuncture Board  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
3 LORI JEAN FORCUCCI  
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8 *Attorneys for Complainant*

9  
10 **BEFORE THE  
ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against,

13 **XIAO HONG QI, A.C.**  
14 **913 E. Vista Way**  
**Vista, CA 92084**

15 **Acupuncturist License No. AC 11857**

16 Respondent.

Case No. 1A-2011-103

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

17  
18 **FINDINGS OF FACT**

19 1. On or about April 12, 2012, then- Complainant Janelle Wedge, in her official capacity  
20 as the then Executive Officer of the Acupuncture Board, Department of Consumer Affairs, filed  
21 Accusation No. 1A-2011-103 against Xiao Hong Qi, A.C. (Respondent) before the Acupuncture  
22 Board.

23 2. On or about October 16, 2007, the Acupuncture Board (Board) issued Acupuncturist  
24 License No. AC 11857 to Respondent. (**Exhibit A – Certification of Licensure**).<sup>1</sup>

25  
26  
27 <sup>1</sup> All exhibits are true and correct copies and are fully incorporated by reference, as if set  
28 forth in full herein. Exhibits are located in the attached in the Default Decision and Order Exhibit  
Package.

1 Acupuncturist License No. AC 11857 was in full force and effect at all times relevant to the  
2 charges brought herein and will expire on July 31, 2015, unless renewed.

3 3. On or about April 12, 2012, the Board served by Certified and First Class Mail a true  
4 and correct copy of the Accusation No. 1A-2011-103, Statement to Respondent, Notice of  
5 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7,  
6 to Respondent's address of record with the Board, which was and is 913 E. Vista Way, Vista, CA  
7 92084. **(Exhibit B – Accusation No. 1A-2011-103, related documents and Declaration of**  
8 **Service.)** Service of the Accusation was effective as a matter of law under the provisions of  
9 Government Code section 11505, subdivision (c).

10 4. On or about April 18, 2012, the aforementioned documents referenced in paragraph 3,  
11 above, which were mailed by certified mail, were received by Respondent. **(Exhibit C – return**  
12 **receipt.)**

13 5. Government Code section 11506 states, in pertinent part:

14 “(c) The respondent shall be entitled to a hearing on the merits if the  
15 respondent files a notice of defense, and the notice shall be deemed a specific denial  
16 of all parts of the accusation not expressly admitted. Failure to file a notice of  
17 defense shall constitute a waiver of respondent's right to a hearing, but the agency in  
18 its discretion may nevertheless grant a hearing.”

19 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
20 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 1A-  
21 2011-103. **(Exhibit D – Declaration of Lori Forcucci.)**

22 7. California Government Code section 11520 states, in pertinent part:

23 “(a) If the respondent either fails to file a notice of defense or to appear at the  
24 hearing, the agency may take action based upon the respondent's express admissions  
25 or upon other evidence and affidavits may be used as evidence without any notice to  
26 respondent.”

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1           8. Pursuant to its authority under Government Code section 11520, the Board finds  
2 Respondent is in default. The Board will take action without further hearing and, based on  
3 Respondent's express admissions by way of default and the evidence before it, contained in  
4 Exhibits A, B, C, D, E, F, and G, hereto, and hereby finds that the charges and allegations in  
5 Accusation No. 1A-2011-103, and each of them, separately and severally, are true and correct.

6           9. This Accusation is brought before the Board under the authority of the following  
7 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
8 indicated.

9           10. Section 4955 of the Code states, in pertinent part:

10                "The board may deny, suspend, or revoke, or impose probationary conditions  
11 upon, the license of any acupuncturist if he or she is guilty of unprofessional  
12 conduct.

13                "Unprofessional conduct shall include, but not be limited to, the following:

14                "..."

15                "(b) Conviction of a crime substantially related to the qualifications,  
16 functions, or duties of an acupuncturist, the record of conviction being conclusive  
17 evidence thereof.

18                "..."

19           11. Section 4959 of the Code states:

20                "(a) The board may request the administrative law judge, under his or her  
21 proposed decision in resolution of a disciplinary proceeding before the board, to  
22 direct any licensee found guilty of unprofessional conduct to pay to the board a sum  
23 not to exceed actual and reasonable costs of the investigation and prosecution of the  
24 case.

25                "(b) The costs to be assessed shall be fixed by the administrative law judge  
26 and shall not in any event be increased by the board. When the board does not  
27 adopt a proposed decision and remands the case to an administrative law judge, the

28       ///



1 administrative law judge shall not increase the amount of any costs assessed in the  
2 proposed decision.

3 “(c) When the payment directed in the board’s order for payment of costs is  
4 not made by the licensee, the board may enforce the order for payment in the  
5 superior court in the county where the administrative hearing was held. This right  
6 of enforcement shall be in addition to any other rights the board may have as to any  
7 licensee directed to pay costs.

8 “(d) In any judicial action for the recovery of costs, proof of the board’s  
9 decision shall be conclusive proof of the validity of the order of payment and the  
10 terms for payment.

11 “(e) All costs recovered under this section shall be considered a  
12 reimbursement for costs incurred and shall be deposited in the Acupuncture Fund.”

13 12. Respondent has subjected her Acupuncture License No. AC 11857 to disciplinary  
14 action under section 4955, as defined by section 4955, subdivision (b), of the Code, in that she  
15 has been convicted of crimes substantially related to the qualifications, functions or duties of an  
16 acupuncturist, as more particularly alleged hereinafter:

17 13. On or about June 15, 2011, Respondent was cited for misdemeanor violations  
18 **(Exhibit E – Citation 6/15/11 and Conviction Documents)** of the following City of Vista  
19 Municipal Codes:

20 (a) Count 1: Section 5.56.190 of the Vista Municipal Code, unlawful  
21 advertising;

22 (b) Count 2: Section 5.56.070, subdivision (B), of the Vista Municipal Code,  
23 unlicensed massage;

24 (c) Count 3: Section 5.56.170, subdivision (P), of the Vista Municipal Code,  
25 unlawful massage, unlawful and intentional touching of the client’s genitals;

26 (d) Count 4: Section 5.56.070, subdivision (D), of the Vista Municipal Code,  
27 no display of license information;

28 ///

1 (e) Count 5: Section 5.56.070, subdivision (X), of the Vista Municipal Code,  
2 no written customer record;

3 (f) Count 6: Section 5.56.070, subdivision (F), of the Vista Municipal Code,  
4 no list of services available; and

5 (g) Count 7: Section 5.56.070, subdivision (A), of the Vista Municipal Code,  
6 responsibility for massage therapists on premises.

7 14. On or about November 4, 2011, Respondent was additionally cited for a second  
8 misdemeanor violation of Section 5.56.190 of the Vista Municipal Code, unlawful advertisement  
9 of massage services without including a massage therapy permit number as Count 8. (**Exhibit E**  
10 **– Citation and Conviction documents.**)

11 15. On or about November 4, 2011, in the Superior Court of California, County of San  
12 Diego, in the case entitled, *The People vs. Xiao Hong Qi*, Case No. CN 296138, Respondent pled  
13 guilty to and was convicted of two misdemeanors (**Exhibit E – Citation and Conviction**  
14 **documents**):

15 (a) Count 3, violation of Section 5.56.190 subdivision (P), of the Vista  
16 Municipal Code, unlawful massage, unlawful and intentional touching of the client's  
17 genitals; and

18 (b) Count 8, violation of Section 5.56.190 of the Vista Municipal Code,  
19 unlawful advertisement of massage services without including a massage therapy  
20 permit number.

21 (c) Counts 1, 2, 4, 5, 6 and 7 were dismissed.

22 16. On or about November 4, 2011, Respondent was placed on probation for three years,  
23 and ordered to pay fines of \$500 each for counts 3 and 8. In addition, Respondent was ordered  
24 not to operate any type of massage business in the City of Vista, among other probationary terms  
25 (**Exhibit E – Conviction documents**).

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**FACTORS IN AGGRAVATION**

17. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on April 26, 2011, Respondent was issued a Citation by the Board, under Code Section 4955, and she has committed acts of unprofessional conduct that arose under the following facts and circumstances (**Exhibit F – Citation - 4/26/11**):

18. On or about October 26, 2007, in response to an investigation by an Anaheim Enforcement Officer, Respondent agreed to perform a 30 minute massage in consideration of payment of \$40, in a facility holding a business license as an acupuncture clinic, but which was without acupuncture supplies and was functioning as an unlicensed massage parlor.

19. On or about October 26, 2007, Respondent was charged with:

(a) One violation of Anaheim Municipal Code Section 4.29.030, the operator's license requirement;

(b) One violation of Anaheim Municipal Code Section 4.29.060, the massage technician permit requirement; and

(c) One infraction of Anaheim Municipal Code section 3.04.050, the business license requirement.

20. On October 16, 2008, Respondent pled guilty to and was convicted of one infraction of Anaheim Municipal Code Section 3.04.050, a violation of the business license requirement.

21. On or about January 16, 2009, a follow up investigation was performed after an Anaheim Enforcement officer found an inappropriate advertisement for massage at the location at which Respondent was cited on October 26, 2007. Respondent again agreed to perform a 30 minute massage for the Enforcement Officer in consideration of payment of \$40. Upon investigation, the Enforcement Officer found that the same municipal code violations cited on October 26, 2007, still existed on January 16, 2009.

22. On or about January 16, 2009, Respondent was charged with:

(a) One violation of Anaheim Municipal Code Section 4.29.030, the operator's license requirement;

///

(b) One violation of Anaheim Municipal Code Section 4.29.060, the massage technician permit requirement; and

(c) One infraction of Anaheim Municipal Code Section 3.04.050, the business license requirement.

23. On or about July 9, 2009, Respondent pled guilty to and was convicted of a misdemeanor violation of Anaheim Municipal Code Section 4.29.060, the massage technician permit requirement.

Employment as an acupuncturist for unlicensed person

24. On or about January 16, 2009, Respondent committed an act of unprofessional conduct by being engaged as an independent contractor acupuncturist for the business of an unlicensed person.

Failure to register address of employment with Board

25. On or about January 16, 2009, Respondent committed an act of unprofessional conduct in that she failed to register her business address for her employment as an acupuncturist as independent contractor with the Board.

26. The Board further finds that pursuant to Business and Professions Code section 4959, the costs of investigation and enforcement of the case prayed for in the Accusation total \$2665.00, based on the Declaration of Costs contained in **Exhibit G – Declaration of Costs of Deputy Attorney General Lori Forcucci**.

**DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Xiao Hong Qi, A.C. has subjected her Acupuncturist License No. AC 11857 to discipline.

2. Pursuant to its authority under California Government Code section 11520, and based on the evidence before it, the Board hereby finds that the charges and allegations contained in Accusation No. 1A-2011-103, and the Findings of Fact contained in paragraphs 1 through 26, above, and each of them, separately and severally, are true and correct.

3. Pursuant to its authority under California Government Code section 11520, and by reason of the Findings of Fact contained in paragraphs 1 through 26, above, and Determination of

Issues 1 and 2, above, the Board hereby finds that respondent Xiao Hong Qi, has subjected her Acupuncturist License No. AC 11857 to disciplinary action under California Business and Professions Code section 4955 in that:

(a) Respondent was convicted of a crime substantially related to the qualifications, functions or duties of an acupuncturist; and

(b) Respondent, in violation of Codes section 4955, engaged in conduct which is unbecoming to a member in good standing of a person in the practice of acupuncture and which demonstrates an unfitness to practice acupuncture.

4. Respondent is liable for and hereby ordered to pay the above costs of investigation and enforcement of this action, in the amount of \$2,665.00.

**ORDER**

**IT IS SO ORDERED** that Acupuncturist License No. AC 11857, heretofore issued to Respondent Xiao Hong Qi, A.C., is revoked. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action, in the amount of \$2,665.00.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on \_\_\_\_\_.

It is so ORDERED \_\_\_\_\_

\_\_\_\_\_  
FOR THE ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

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1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
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3 Deputy Attorney General  
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7

8 *Attorneys for Complainant*

9 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against,

12 **XIAO HONG QI, A.C.**  
13 **913 E. Vista Way**  
14 **Vista, CA 92084**

15 **Acupuncturist License No. AC 11857**

16 Respondent.

Case No. 1A-2011-103

**DEFAULT DECISION**  
**AND ORDER EXHIBIT PACKAGE**

[Gov. Code, §11520]

17 The following documents are respectfully submitted in the Default Decision Evidence  
18 Packet submitted in support of the above-captioned matter.

19 Exhibit A: True and correct copy of Certification of Licensure;

20 Exhibit B: True and correct copy of Accusation No. 1A-2011-103, Related Documents,  
21 and Declaration of Service;

22 Exhibit C: Copy of Return Receipt returned by Post Office;

23 Exhibit D: Declaration of Deputy Attorney General Lori Jean Forcucci regarding: Notice  
24 of Defense;

25 Exhibit E: Certified copy of Citation (dated June 15, 2011) and Conviction Documents  
26 (November 4, 2011);

27 Exhibit F: Citation Issued by Board dated April 26, 2011; and


28 ///

Exhibit G: Declaration of Costs of Deputy Attorney General Lori Forcucci.

Dated: 12.10.13

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
THOMAS S. LAZAR  
Supervising Deputy Attorney General

  
LORI JEAN FORCUCCI  
Deputy Attorney General  
*Attorneys for Complainant*

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Exhibit A

True and correct copy of Certification of Licensure



**ACUPUNCTURE BOARD**

1747 North Market Blvd., Suite 180, Sacramento, CA 95834  
P (916) 515-5200 F (916) 928-2204 [www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)



December 16, 2013

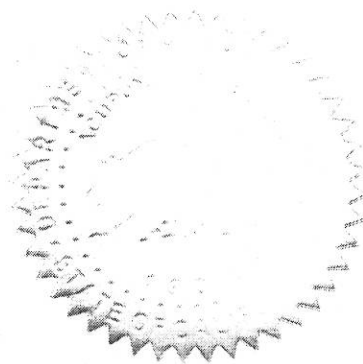
I, Terri Thorfinnson, Executive Officer of the Acupuncture Board and official custodian of records for licensure of acupuncturists for the State of California, do hereby certify that our records indicate that **Xiao Hong Qi**, was issued license number **AC 11857** on October 16, 2007, with a current expiration date of July 31, 2015. Licensee's address of record is 913 E. Vista Way, Vista, CA 92084. This license is current and valid.

Respectfully submitted,

TERRI THORFINNSON  
Executive Officer

**SECTION 162 OF THE BUSINESS  
AND PROFESSIONS CODE:**

The certificate of the officer in charge of the records of any board in the department that any person was or was not on a specified date, or during a specified period of time, licensed, certified or registered under the provisions of law administered by the Board, or that the license, certificate or registration of any person was revoked or under suspension, shall be admitted in any court as prima facie evidence of the facts therein recite.



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Exhibit B

True and correct copy of Accusation No. 1A-2011-103, Related Documents and  
Declaration of Service

FILED

APR 12 2012

ACUPUNCTURE BOARD

KAMALA D. HARRIS  
Attorney General of California  
THOMAS S. LAZAR  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

BEFORE THE  
ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1A-2011-103

**XIAO HONG QI, L.Ac.**  
**913 E. Vista Way**  
**Vista, CA 92084**

**A C C U S A T I O N**

**Acupuncturist License No. AC 11857**

Respondent.

Complainant alleges:

**PARTIES**

1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

2. On or about October 16, 2007, the Acupuncture Board issued Acupuncturist License No. AC 11857 to Xiao Hong Qi, L.Ac. (Respondent). Acupuncturist License No. AC 11857 was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2013, unless renewed.

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///

///

## JURISDICTION

3. This Accusation is brought before the Acupuncture Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4955 of the Code states, in pertinent part:

“The board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct.

“Unprofessional conduct shall include, but not be limited to, the following:

“...

“(b) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

“...”

5. Section 4959 of the Code states:

“(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable costs of the investigation and prosecution of the case.

“(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

“(c) When the payment directed in the board’s order for payment of costs is not made by the licensee, the board may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right

1 of enforcement shall be in addition to any other rights the board may have as to  
2 any licensee directed to pay costs.

3 “(d) In any judicial action for the recovery of costs, proof of the board’s  
4 decision shall be conclusive proof of the validity of the order of payment and the  
5 terms for payment.

6 “(e) All costs recovered under this section shall be considered a  
7 reimbursement for costs incurred and shall be deposited in the Acupuncture Fund.”

### 8 **FIRST CAUSE FOR DISCIPLINE**

#### 9 **(Conviction of Crimes)**

10 6. Respondent has subjected her Acupuncture License No. 11857 to disciplinary action  
11 under section 4955, as defined by section 4955, subdivision (b), of the Code, in that she has been  
12 convicted of crimes substantially related to the qualifications, functions or duties of an  
13 acupuncturist, as more particularly alleged hereinafter:

14 7. On or about June 15, 2011, Respondent was cited for misdemeanor violations of the  
15 following City of Vista Municipal Codes:

16 (a) Count 1: Section 5.56.190 of the Vista Municipal Code, unlawful advertising;

17 (b) Count 2: Section 5.56.070, subdivision (B), of the Vista Municipal Code, unlicensed  
18 massage;

19 (c) Count 3: Section 5.56.170, subdivision (P), of the Vista Municipal Code, unlawful  
20 massage, unlawful and intentional touching of the client’s genitals;

21 (d) Count 4: Section 5.56.070, subdivision (D), of the Vista Municipal Code, no display  
22 of license information;

23 (e) Count 5: Section 5.56.070, subdivision (X), of the Vista Municipal Code, no written  
24 customer record;

25 (f) Count 6: Section 5.56.070, subdivision (F), of the Vista Municipal Code, no list of  
26 services available; and

27 (g) Count 7: Section 5.56.070, subdivision (A), of the Vista Municipal Code,  
28 responsibility for massage therapists on premises.

8. Count 8: On or about November 4, 2011, Respondent was additionally cited for a second misdemeanor violation of Section 5.56.190 of the Vista Municipal Code, unlawful advertisement of massage services without including a massage therapy permit number.

9. On or about November 4, 2011, in the Superior Court of California, County of San Diego, in the case entitled, *The People vs. Xiao Hong Qi*, Case No. CN 296138, Respondent pled guilty to and was convicted of two misdemeanors:

(a) Count 3, violation of Section 5.56.190 subdivision (P), of the Vista Municipal Code, unlawful massage, unlawful and intentional touching of the client's genitals; and

(b) Count 8, violation of Section 5.56.190 of the Vista Municipal Code, unlawful advertisement of massage services without including a massage therapy permit number.

(c) Counts 1, 2, 4, 5, 6 and 7 were dismissed.

10. On or about November 4, 2011, Respondent was placed on probation for three years, and ordered to pay fines of \$500 each for counts 3 and 8. In addition, Respondent was ordered not to operate any type of massage business in the City of Vista, among other probationary terms.

## FACTORS IN AGGRAVATION

11. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on April 26, 2011, Respondent was issued a Citation by the Board, under Code Section 4955, for acts of unprofessional conduct that arose under the following facts and<sup>1</sup> circumstances:

## Conviction of Infraction on October 16, 2008

12. On or about October 26, 2007, in response to an investigation by an Anaheim Enforcement Officer, Respondent agreed to perform a 30 minute massage in consideration of payment of \$40, in a facility holding a business license as an acupuncture clinic, but which was without acupuncture supplies and was functioning as an unlicensed massage parlor.

13. On or about October 26, 2007, Respondent was charged with:

(a) One violation of Anaheim Municipal Code Section 4.29.030, the operator's license requirement;

///

1 (b) One violation of Anaheim Municipal Code Section 4.29.060, the massage technician  
2 permit requirement; and

3 (c) One infraction of Anaheim Municipal Code section 3.04.050, the business license  
4 requirement.

5 14. On or about October 16, 2008, Respondent pled guilty to and was convicted of one  
6 infraction of Anaheim Municipal Code Section 3.04.050, a violation of the business license  
7 requirement.

8 Conviction of Misdemeanor on July 2, 2009

9 15. On or about January 16, 2009, a follow up investigation was performed after an  
10 Anaheim Enforcement officer found an inappropriate advertisement for massage at the location at  
11 which Respondent was cited on October 26, 2007. Respondent again agreed to perform a 30  
12 minute massage for the Enforcement Officer in consideration of payment of \$40. Upon  
13 investigation, the Enforcement Officer found that the same municipal code violations cited on  
14 October 26, 2007, still existed on January 16, 2009.

15 16. On or about January 16, 2009, Respondent was charged with:

16 (a) One violation of Anaheim Municipal Code Section 4.29.030, the operator's license  
17 requirement;

18 (b) One violation of Anaheim Municipal Code Section 4.29.060, the massage technician  
19 permit requirement; and

20 (c) One infraction of Anaheim Municipal Code Section 3.04.050, the business license  
21 requirement.

22 17. On or about July 9, 2009, Respondent pled guilty to and was convicted of a  
23 misdemeanor violation of Anaheim Municipal Code Section 4.29.060, the massage technician  
24 permit requirement.

25 Employment as an acupuncturist for unlicensed person

26 18. On or about January 16, 2009, Respondent committed an act of unprofessional  
27 conduct by being engaged as an independent contractor acupuncturist for the business of an  
28 unlicensed person.

1 Failure to register address of employment with Board

2 19. On or about January 16, 2009, Respondent committed an act of unprofessional  
3 conduct in that she failed to register her business address for her employment as an acupuncturist  
4 as independent contractor with the Board.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
7 and that following the hearing, the Acupuncture Board issue a decision:

8 1. Revoking or suspending Acupuncturist No. AC 11857, issued to Respondent Xiao  
9 Hong Qi, L.Ac.

10 2. Ordering Respondent Xiao Hong Qi, L.Ac. to pay the Acupuncture Board the  
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
12 Professions Code section 4959;

13 3. Taking such other and further action as deemed necessary and proper.

14 DATED: **APR 12 2012**

  
JANELLE WEDGE  
Executive Officer  
Acupuncture Board  
Department of Consumer Affairs  
State of California  
Complainant

18 SD2012702876  
19 70545441.doc



1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
3 LORI JEAN FORCUCCI  
Deputy Attorney General  
4 State Bar No. 125345  
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E-mail: Lori.Forcucci@doj.ca.gov  
8 *Attorneys for Complainant*

9 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1A-2011-103

13 **XIAO HONG QI, A.C.**

**STATEMENT TO RESPONDENT**

14 Respondent.

[Gov. Code §§ 11504, 11505(b)]

15  
16 **TO RESPONDENT:**

17 Enclosed is a copy of the Accusation that has been filed with the Acupuncture Board of the  
18 Department of Consumer Affairs (Board), and which is hereby served on you.

19 Unless a written request for a hearing signed by you or on your behalf is delivered or  
20 mailed to the Board, represented by Deputy Attorney General Lori Jean Forcucci, within fifteen  
21 (15) days after a copy of the Accusation was personally served on you or mailed to you, you will  
22 be deemed to have waived your right to a hearing in this matter and the Board may proceed upon  
23 the Accusation without a hearing and may take action thereon as provided by law.

24 The request for hearing may be made by delivering or mailing one of the enclosed forms  
25 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in  
26 section 11506 of the Government Code, to  
27  
28

1                   Lori Jean Forcucci  
2                   Deputy Attorney General  
3                   110 West "A" Street, Suite 1100  
4                   San Diego, California 92101

5                   P.O. Box 85266  
6                   San Diego, California 92186-5266

7                   You may, but need not, be represented by counsel at any or all stages of these proceedings.

8                   The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a  
9                   specific denial of all parts of the Accusation, but you will not be permitted to raise any objection  
10                  to the form of the Accusation unless you file a further Notice of Defense as provided in section  
11                  11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

12                 If you file any Notice of Defense within the time permitted, a hearing will be held on the  
13                 charges made in the Accusation.

14                 The hearing may be postponed for good cause. If you have good cause, you are obliged to  
15                 notify the Office of Administrative Hearings, 1350 Front Street, Suite 3005, San Diego, CA  
16                 92101, within ten (10) working days after you discover the good cause. Failure to notify the  
17                 Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

18                 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

19                 If you desire the names and addresses of witnesses or an opportunity to inspect and copy  
20                 the items mentioned in section 11507.6 of the Government Code in the possession, custody or  
21                 control of the Board you may send a Request for Discovery to the above designated Deputy  
22                 Attorney General.

### 23                   NOTICE REGARDING STIPULATED SETTLEMENTS

24                 It may be possible to avoid the time, expense and uncertainties involved in an  
25                 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
26                 settlement is a binding written agreement between you and the government regarding the matters  
27                 charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
28                 Acupuncture Board but, once approved, it would be incorporated into a final order.

1 Any stipulation must be consistent with the Board's established disciplinary guidelines;  
2 however, all matters in mitigation or aggravation will be considered. A copy of the Board's  
3 Disciplinary Guidelines will be provided to you on your written request to the state agency  
4 bringing this action.

5 If you are interested in pursuing this alternative to a formal administrative hearing, or if you  
6 have any questions, you or your attorney should contact Deputy Attorney General Lori Jean  
7 Forcucci at the earliest opportunity.

8 Dated: March 30, 2012

KAMALA D. HARRIS  
Attorney General of California  
THOMAS S. LAZAR  
Supervising Deputy Attorney General

11   
12 LORI JEAN FORCUCCI  
13 Deputy Attorney General  
14 *Attorneys for Complainant*

14 LJF:adc  
15 SD2012702876

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
3 LORI JEAN FORCUCCI  
Deputy Attorney General  
4 State Bar No. 125345  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2080  
7 Facsimile: (619) 645-2061  
E-mail: Lori.Forcucci@doj.ca.gov  
8 *Attorneys for Complainant*

9 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1A-2011-103

13 XIAO HONG QI, A.C.

**REQUEST FOR DISCOVERY**

14 Respondent.

15 TO RESPONDENT:

16  
17 Under section 11507.6 of the Government Code of the State of California, parties to an  
18 administrative hearing, including the Complainant, are entitled to certain information concerning  
19 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code  
20 concerning such rights is included among the papers served.

21 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE  
22 HEREBY REQUESTED TO:

- 23 1. Provide the names and addresses of witnesses to the extent known to the Respondent,  
24 including, but not limited to, those intended to be called to testify at the hearing, and  
25 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the  
26 following in the possession or custody or under control of the Respondent:  
27 a. A statement of a person, other than the Respondent, named in the  
28 initial administrative pleading, or in any additional pleading, when it is claimed that

1 the act or omission of the Respondent as to this person is the basis for the  
2 administrative proceeding;

3 b. A statement pertaining to the subject matter of the proceeding made  
4 by any party to another party or persons;

5 c. Statements of witnesses then proposed to be called by the  
6 Respondent and of other persons having personal knowledge of the acts, omissions or  
7 events which are the basis for the proceeding, not included in (a) or (b) above;

8 d. All writings, including but not limited to reports of mental, physical  
9 and blood examinations and things which the Respondent now proposes to offer in  
10 evidence;

11 e. Any other writing or thing which is relevant and which would be  
12 admissible in evidence, including but not limited to, any patient or hospital records  
13 pertaining to the persons named in the pleading;

14 f. Investigative reports made by or on behalf of the Respondent  
15 pertaining to the subject matter of the proceeding, to the extent that these reports (1)  
16 contain the names and addresses of witnesses or of persons having personal  
17 knowledge of the acts, omissions or events which are the basis for the proceeding, or  
18 (2) reflect matters perceived by the investigator in the course of his or her  
19 investigation, or (3) contain or include by attachment any statement or writing  
20 described in (a) to (e), inclusive, or summary thereof.

21  
22 For the purpose of this Request for Discovery, "statements" include written statements by  
23 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical  
24 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or  
25 summaries of these oral statements.

26 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery  
27 should be deemed to authorize the inspection or copying of any writing or thing which is  
28

1 privileged from disclosure by law or otherwise made confidential or protected as attorney's work  
2 product.

3 Your response to this Request for Discovery should be directed to the undersigned attorney  
4 for the Complainant at the address on the first page of this Request for Discovery within 30 days  
5 after service of the Accusation.

6 Failure without substantial justification to comply with this Request for Discovery may  
7 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the  
8 Government Code.

9 Dated: March 30, 2012

KAMALA D. HARRIS  
Attorney General of California  
THOMAS S. LAZAR  
Supervising Deputy Attorney General

12   
13 LORI JEAN FORCUCCI  
14 Deputy Attorney General  
15 *Attorneys for Complainant*

16 LJF:adc  
17 SD2012702876  
70550158.doc

BEFORE THE  
ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**XIAO HONG QI, A.C.**

Respondent.

Case No. 1A-2011-103

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; Disciplinary Guidelines; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: \_\_\_\_\_

Respondent's Name: \_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Respondent's Mailing  
Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Respondent's Telephone: \_\_\_\_\_

**Check appropriate box:**

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_

Counsel's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Counsel's Telephone Number \_\_\_\_\_

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

SD2012702876

NOTICE OF DEFENSE.RTF

BEFORE THE  
ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**XIAO HONG QI, A.C.**

Respondent.

Case No. 1A-2011-103

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; Disciplinary Guidelines; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: \_\_\_\_\_

Respondent's Name: \_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Respondent's Mailing  
Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Respondent's Telephone: \_\_\_\_\_

**Check appropriate box:**

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_

Counsel's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Counsel's Telephone Number \_\_\_\_\_

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

SD2012702876

NOTICE OF DEFENSE.RTF



**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7  
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

**SECTION 11507.5: Exclusivity of discovery provisions**

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

**SECTION 11507.6: Request for discovery**

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

## SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

\*\*\*\*\*

**DECLARATION OF SERVICE BY MAIL**

In the Matter of the Accusation filed Against:

XIAO HONG QI, L.AC.

Case No. 1A-2011-103

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1747 North Market Boulevard, Suite 180, Sacramento, CA 95834. I served a true copy of the attached:

**STATEMENT TO RESPONDENT, ACCUSATION,  
REQUEST FOR DISCOVERY, NOTICE OF DEFENSE (2),  
GOVERNMENT CODE SECTIONS 11507.5, 11507.6 and 11507.7**

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

NAME and ADDRESS

CERTIFIED MAIL NO.

Xiao Hong Qi, L.Ac  
913 E. Vista Way  
Vista, CA 92084

7011 2970 0000 0656 4925

Lori Jean Forcucci, DAG  
California Department of Justice  
Office of the Attorney General, HQE  
110 West "A" Street, Suite 1100  
San Diego, CA 92101

regular mail

Thomas S. Lazar, SDAG  
California Department of Justice  
Office of the Attorney General, HQE  
110 West "A" Street, Suite 1100  
San Diego, CA 92101

regular mail

Each said envelope was, on April 12, 2012, sealed and deposited in the U.S. mail box at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for attempt at service on Respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Executed on April 12, 2012, at Sacramento, California.

  
DECLARANT

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Exhibit C

Copy of Returned Receipt from Post Office

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Case No. 1A-2011-103

Xiao Hong Qi, L.Ac.  
913 E. Vista Way  
Vista, CA 92084

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

☒ Agent  
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- ☒ Certified Mail
- ☐ Registered
- ☐ Insured Mail
- ☐ Express Mail
- ☐ Return Receipt for Merchandise
- ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 2970 0000 0656 4925

PS Form 3811, February 2004 Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE

APR 18 2011 PM 4



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

ACUPUNCTURE BOARD  
RECEIVED  
APR 18 2011

• Sender: Please print your name, address, and ZIP+4 in this box •

STATE OF CALIFORNIA  
ACUPUNCTURE BOARD  
1747 NORTH MARKET BLVD  
SUITE 180  
SACRAMENTO, CA 95834-1924

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Exhibit D

Declaration of Deputy Attorney General Lori Jean Forcucci  
Re: no return of Notice of Defense

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
3 LORI JEAN FORCUCCI  
Deputy Attorney General  
4 State Bar No. 125345  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2080  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1A-2011-103

13 **XIAO HONG QI, A.C.**  
14 **913 E. Vista Way**  
15 **Vista, CA 92084**

**DECLARATION OF DEPUTY**  
**ATTORNEY GENERAL LORI JEAN**  
**FORCUCCI, IN SUPPORT OF DEFAULT**  
**DECISION AND ORDER**

16 **Acupuncturist License No. AC 11857**

17 Respondent.

18 I, Lori Jean Forcucci, declare:

19 1. I am the Deputy Attorney General assigned to *The Matter of the Accusation Against:*  
20 *XIAO HONG QI, A.C. (Respondent.)* If called to testify, I could and would testify by my  
21 personal knowledge, or information and belief, as to the facts set forth herein.

22 2. I am the Deputy Attorney General in the Health Quality Enforcement Section  
23 assigned to the above-entitled matter. I have been assigned to this matter since it was opened, on  
24 or about January 17, 2012.

25 3. As the Deputy Attorney General assigned to this case, I receive the incoming mail  
26 pertaining to it. It is the custom and practice in the San Diego Office of the Attorney General,  
27 Health Quality Enforcement Section that all incoming mail, including a Notice of Defense, is

28 ///



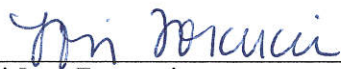
1 first given to the Supervising Deputy Attorney General for his initial review. Thereafter, the mail  
2 for the cases that are assigned to me is placed my labeled, assigned mail slot. I retrieve all the  
3 mail from my mail slot.

4 3. In regard to incoming facsimile transmissions (faxes), it is the custom and practice in  
5 the San Diego Office of the Attorney General that all incoming faxes are received by an office  
6 staff person at the reception desk. Incoming faxes are then scanned and emailed to the addressee,  
7 as well as to the Supervising Deputy Attorney General and the secretary of the addressee.

8 4. As of the date that this Declaration was signed, I have not received Respondent's  
9 Notice of Defense either by mail, by facsimile transmission, or by any other method of delivery.

10 I declare under penalty of perjury, under the laws of the State of California, that the  
11 foregoing is true and correct, and executed in the City of Sacramento, State of California.

12 DATED: 10.16.13

  
13 Lori Jean Forcucci,  
14 Deputy Attorney General  
15 State of California  
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Exhibit E

Certified copy of June 15, 2011 Citation and  
November 4, 2011 Conviction Documents

June 15, 2011

CITATION

SAN DIEGO COUNTY SHERIFF'S DEPARTMENT  
CONTINUATION OF NO. 558035 XXXXXXXX  
NOTICE TO APPEAR

Date of Violation 1/5/11 Time 2018 Hours PAGE 2 OF 2  
Name (First, Middle, Last) XIAO HONG QI  
State License No. N/A

Items checked are cited in accordance with 40610(b) CVC - See reverse ☐ Booking Required CASE NO. 1128857

Violation(s)  
S.56.070(X) VMC NO WRITTEN CUSTOMER RECORD  
S.56.070(F) VMC LIST OF SERVICES NOT AVAILABLE  
S.56.070(A) VMC MASSAGE ESTABLISHMENT PERMIT REQUIRED

Offense(s) not committed in my presence, certified on information and belief

I declare under penalty of perjury that the information on this page is continuation of the enforcement document noted, and is true and correct.

Signature of Issuing Officer G. Chrysler 1952

Without admitting guilt, I promise to appear at the time and place designated on basic document

X Signature XIAO HONG QI

I am approved by the Judicial Council of California 84 V.C. 40500, 40513(b), 40522, P.C. 853.9

San Diego County Sheriff's Department  
NOTICE TO APPEAR

558035

Date of Violation 1-15-11 Time 1354 AM Day of Week S M T W T F S Case Number 1128857  
Name (First, Middle, Last) XIAO HONG QI ☐ Owner's Responsibility (VC 40001)

Driver's License Number State CA Class C Commercial Lic. ☐ Yes ☒ No Age 55

Sex F Hair BRO Eyes BRO Height 5'6 Weight 110 Race ☐ Commercial Veh. (VC 15210(b))

Vehicle License Number / VIN State ☐ Hazardous Material (VC 353)

Year Make Model Body Style Color ☐ Same as Driver

Registered Owner or Lessee ☐ Same as Driver

Address ☐ Same as Driver

City State Zip Code ☐ Evidence of Financial Responsibility

Correctable Violation (VC 40610(b)) Yes No Violation Code and Section Description Misdemeanor or Infraction (Circle)

☒ S.56.190 VMC UNLAWFUL ADS (M) I

☒ S.56.070(B) VMC ALLOW UNLIC. MASSAGE (M) I

☒ S.56.070(D) VMC NO DISPLAY OF LICENSE INFO (M) I

☒ S.56.070(P) VMC UNLAWFUL MASSAGE (M) I ☐ Booking Required (See reverse)

Speed Approx. P.F. Max. Veh. Lmt. Safe Spd. Radar Beat 303 ☐ Continuation Form Issued

Location of Violation(s) City of Occurrence 913 E. VISTAWAY VISTA VISTA ☐ Unincorp.

Weather Conditions Road Conditions Traffic Conditions Station/Sub-Stn. Division VISTA CORPS

☐ Violations not committed in my presence, declared on information and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date 1-15-11 G. Chrysler 1952  
Arresting or Issuing Deputy I.D. Number

Name of Arresting Deputy, if different from Issuing Deputy I.D. Number

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE PLACE AND TIME INDICATED BELOW

X Signature XIAO HONG QI

Superior Court of San Diego County - FOLLOW THE INSTRUCTIONS ON THE REVERSE

☒ North Division - Criminal 325 South Melrose Vista, CA 92081 (760) 201-8600

☐ North Division - Traffic 325 S. Melrose, Ste 350, Annex Bldg, Vista, CA 92081 (760) 201-8500

☐ East Division 250 East Main Street, El Cajon, CA 92020 (619) 456-4100

☐ East Division - Branch 1428 Montecito Road, Ramona, CA 92065 (760) 738-2435

☐ Central Division - Criminal 220 West Broadway, San Diego, CA 92101 (619) 450-5700

☐ Central Division - Traffic 8950 Clairemont Mesa Blvd., San Diego, CA 92123 (858) 634-1800

☐ Juvenile Division 2901 Meadowlark Drive, San Diego, CA 92123 (858) 634-1616

☐ South Division 500 Third Avenue, Chula Vista, CA 92010 (619) 746-6200

DATE 8-10-11 TIME 0800 AM ☐ PM ☐ To be ☐ You may arrange with the clerk to appear at a night session of the court

SO-99 REV 09/05 Judicial Council of California Form Rev. 09/2005 (Veh. Code § 40500(b), 40513(b), 40522, 40600, PC§ 853.9) TR-130

November 4, 2011  
Conviction Documents

NOV 04 2011

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO		By: M. RODRIGUEZ, Deputy
PEOPLE vs. <u>XIAO Hong QI</u>	Defendant	
PLEA OF GUILTY/NO CONTEST - MISDEMEANOR		Case # <u>CW296138</u>
		DA/CA/ #

INSTRUCTIONS: Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial each applicable item only if you understand it. If you have any questions about your case, the possible sentence, or the information on this form, ask your lawyer or the judge.

I, the defendant in the above-entitled case, personally and/or by my attorney, declare as follows:

1. Of those charges now filed against me in this case, I plead

GUILTY/NO CONTEST

to the following offenses and admit the enhancements, allegations, and prior convictions as follows:

COUNT	CHARGE	ENHANCEMENT/ALLEGATION
<u>3</u>	<u>VMC 5.56.070(P)</u>	
<u>8</u>	<u>VMC 5.56.190</u>	

PRIORS: (LIST ALLEGATION SECTION, CONVICTION DATE, CASE NUMBER AND CHARGE)

2. I have not been induced to enter the above plea by any promise or representation of any kind, except: (State any agreement with the prosecutor.)

CGP to counts 3 and 8; \$500 fine; dismis  
balance of complaint;

3. I am entering a plea freely and voluntarily, without threat or fear to me or anyone closely related to me.
4. I understand that a plea of No Contest is the same as a plea of Guilty for all purposes.
5. I am sober and my judgment is not impaired. I have not consumed any drug, alcohol or narcotic within the past 24 hours.

#### RIGHT TO A LAWYER

6. I understand that I have the Constitutional right to be represented by a lawyer at all stages of the proceedings including sentencing. I can hire my own lawyer or the Court will appoint a lawyer for me if I cannot afford one. I understand the dangers and disadvantages of representing myself and that it is usually unwise to represent myself.
- 6a. I understand that I have the right to be present in Court to enter my plea and for sentencing. I expressly authorize my lawyer to enter this plea on my behalf, in my absence. I expressly authorize my lawyer to appear for me at sentencing.
- 6b. I give up the right to an attorney and wish to represent myself.

#### CONSTITUTIONAL RIGHTS

I understand that as to all charges, allegations and prior convictions filed against me I also have the following constitutional rights, which I now give up to enter my plea of guilty/no contest:

7. I have the right to a speedy and public trial by jury. I now give up this right.
8. I have the right to confront and cross-examine all the witnesses against me. I now give up this right.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

☐ Central Division   ☐ East County Division   ☐ North County Division   ☐ South County Division   Waivers: ☐ Time ☐ 4th

PEOPLE vs. QI XIAO H STATUS: CI \$ \_\_\_\_\_ ☐ BB ☐ CB (Y/N)  
CASE # CN296138 PROS. # \_\_\_\_\_ DOB: 071156 BKG # \_\_\_\_\_ CTS: \_\_\_\_\_ days \_\_\_\_\_ hrs.  
DATE: 08-10-11 AT 08:00 DEPT. # 014 INTERP: \_\_\_\_\_ ☐ Spanish ☐ Sworn ☐ Oath on File  
JUDGE/COMM/TMP JUDGE: MARSHALL Y. HOCKETT AUSTIN FILED REPORTER: \_\_\_\_\_  
CLERK: M. Rodriguez CSR # / COUNTER #: \_\_\_\_\_  
CHARGE(S): OT5-56-040(A) OT5-56-070(P) 3) OT5-56-070(P) OT5-56-070(B)  
OT5-56-070(F) OT5-56-070(B) MORE 8) OT 5-56-190  
FUTURE DATES: \_\_\_\_\_

Attorney for the People (DPA/PCA/DAG) ☐ Supervised Cert. Legal Intern   Attorney for Defendant (PD/APD/OAC/Retained/Counseling) ☐ Supervised Cert. Legal Intern  
DEFENDANT: ☐ PRESENT ☐ VIA AUDIO VIDEO ☐ SELF REPRESENTED ☐ NOT PRESENT ☐ NOT PRODUCED ☐ FAILED TO APPEAR

☒ Defendant waives arraignment for judgment. ☒ Disposition ☐ Execution of sentence suspended for 3 year(s) on Ct. 3 and 3 year(s) on Ct. 8  
PROBATION IS ☒ GRANTED ☐ Summary ☐ Formal on the following conditions: ☐ DENIED and defendant sentenced as follows:  
☒ Violate no laws ☐ Minor traffic violations are excepted ☐ No same or similar violations ☐ Comply with further conditions attached.

CUSTODY ☐ Commit to Sheriff for \_\_\_\_\_ days / hours ☐ days suspended. ☐ Serve FORTHWITH  
☐ Additional \_\_\_\_\_ days custody stayed pending: ☐ successful completion of probation ☐ review hearing ☐  
☐ Report on \_\_\_\_\_ at \_\_\_\_\_ to: Detention Facility: ☐ Central ☐ Las Colinas ☐ Vista ☐ Work Furlough  
☐ Consecutive to ☐ concurrent with \_\_\_\_\_ ☐ above commit ☐ Consecutive weekends  
☐ NO Early release (PC4018.6 or 4024.1) ☐ NO Work Release ☐ NO County Parole ☐ NO ESP/Home Detention  
☐ CUSTODY ☐ IN LIEU OF \$ \_\_\_\_\_ fine at \$50.00 / \$ \_\_\_\_\_ per day ☐ days PSP  
☐ SATISFIED BY ☐ days PSP ☐ days in \_\_\_\_\_ residential rehab. program.

DAYS CREDIT FOR TIME SERVED	
_____ local	
_____ PC4019 [2/4]	
_____ PC4019(b)(1)(c)(1) [2/2]	
_____ PC4019(b)(2)(c)(2) limited [2/4]	
_____ total credit	

PAY ☐ Attorney Fees \$ \_\_\_\_\_ ☐ Indigent as to Attorney Fees  
Fine (Ct. 3) \$ 500 Restitution Fine \$ incl Accounts Receivable Fee \$ \_\_\_\_\_ TOTAL  
Fine (Ct. 8) \$ 500 conc Court Security Fee \$ incl \$ \_\_\_\_\_ DUE:  
Criminal Conviction Assessment \$ incl Administrative Fee \$ \_\_\_\_\_ [Suspended Amount] \$ \_\_\_\_\_  
Probation Revocation Restitution Fine imposed & suspended \$ 100 [Credit for 4 days served] \$ \_\_\_\_\_ \$500  
☐ Payments set at \$ \_\_\_\_\_ per month beginning on \_\_\_\_\_ and on the \_\_\_\_\_ of each month thereafter until paid in full.  
☐ Fines and fees stayed pending ☐ successful completion of probation ☐

\*The court finds the defendant has the ability to repay the County of San Diego for costs of court appointed attorney fees. This order is not a condition of probation.  
RESTITUTION ☐ Pay restitution to the victim of \$ \_\_\_\_\_ ☐ in an amount to be determined ☐ by Probation, payments through ☐ Court Collections  
☐ Revenue & Recovery ☐ at \$ \_\_\_\_\_ per month beg. ☐ directly to the victim and show proof to the court ☐ by \_\_\_\_\_ ☐ at Review Hrg.  
☐ See stipulated restitution order. ☐ Court retains jurisdiction re: restitution. ☐ Submit to civil process. ☐ Return to court upon reasonable notice by prosecutor.

PUBLIC SERVICE PROGRAM (PSP) ☐ enroll by \_\_\_\_\_ VOLUNTEER WORK  
☐ Call within 72 hrs. / \_\_\_\_\_ for enrollment information. ☐ at any non-profit organization ☐ Other: \_\_\_\_\_  
\_\_\_\_\_ days as condition of probation. ☐ to be completed at an alcohol or drug treatment program or facility (BP25658).  
\_\_\_\_\_ days in lieu of ☐ fines/fees \$ \_\_\_\_\_ ☐ hours as condition of probation  
\_\_\_\_\_ days credit for time served/completed \_\_\_\_\_ hours in lieu of ☐ fines/fees ☐ \_\_\_\_\_ days ☐ custody ☐ PSP  
TOTAL days to be completed \_\_\_\_\_ hours credit for time served/completed  
☐ One day per week ☐ Weekends only ☐ Out of county work authorized. TOTAL hours to be completed \_\_\_\_\_

To run ☐ consecutive to ☐ concurrent with \_\_\_\_\_ ☐ Submit proof to the court by \_\_\_\_\_ ☐ \_\_\_\_\_ days custody for each day/8 hrs missed.  
ALCOHOL/DRUGS ☐ Abstain from alcohol. ☐ Do not be in places where alcohol is the main item for sale, except in the course of employment. ☐ Not use or possess any controlled substance without a valid prescription. ☐ Submit to any test at the request of a peace officer for detection of alcohol/drugs in system.  
☐ FOURTH AMENDMENT WAIVER: Submit person, vehicle, place of residence, property, personal effects to search at any time with or without a warrant, and with or without reasonable cause, when required by a Probation Officer or other law enforcement officer. (to expire \_\_\_\_\_)

ENROLL IN & COMPLETE ☐ Anti-theft ☐ Graffiti ☐ Anger Mgmt. (\_\_\_\_\_) ☐ Drug Ed. 101 - Fine on Ct. \_\_\_\_\_ will be deleted with proof of completion.  
☐ Residential ☐ Outpatient alcohol/drug treatment program ☐ Submit to ☐ Sheriff to administer ☐ HIV TEST per PC1202.1.  
☐ HIV/AIDS Education ☐ in custody ☐ as directed by Assessor. ☐ Attend \_\_\_\_\_ self-help meetings per ☐ week ☐ month for \_\_\_\_\_ days / months.  
☐ Out of County authorized. ☐ STAYED pending \_\_\_\_\_  
☐ Satisfied by residential rehabilitation ☐ concurrent ☐ consecutive \_\_\_\_\_ ☐ Commence/continue education, psychological, psychiatric, drug, alcohol or other rehab. program recom. by the Assessor and not leave or terminate such program without written permission of the court and/or therapist.  
☐ Seek/maintain full-time employment, education, training, or a combination thereof. ☐ Submit ☐ TEST RESULTS ☐ proof of  
☐ ENROLLMENT ☐ PROGRESS ☐ COMPLETION ☐ by \_\_\_\_\_ to the ☐ Court ☐ at REVIEW HEARING(S) ☐ Assessment Unit  
☐ AND every 30 / 60 / \_\_\_\_\_ days THEREAFTER.

DRIVER LICENSE ☐ Do not drive without a valid license and liability insurance. ☐ VC14607.6 advisal given. ☐ License is ☐ suspended ☐ revoked  
\_\_\_\_\_ days / years. ☐ pursuant to ☐ VC13202(a)/(b) (controlled substance) ☐ VC13202.5 (under 21) ☐ VC13202.6 (graffiti)  
☐ Surrender license to the court ☐ by \_\_\_\_\_ ☐ Deft. petitions for a restricted license. ☐ Critical need found. Petition is granted. ☐ Petition is denied.  
☐ License is restricted for \_\_\_\_\_ days ☐ mos. Driving is permitted to/from ☐ work ☐ school ☐ court ordered activities ☐ in course of employment.

WEAPONS ☐ Do not use force or violence upon another. ☐ Have no contact with any victim or complaining witness in this matter.  
☐ Do not own or have possession, custody or control of any WEAPONS or FIREARMS. ☐ Weapon(s) to be ☐ destroyed ☐ returned to \_\_\_\_\_  
☐ Defendant advised that within 10 years of this conviction, owning/possessing/having custody or control of any firearm is a crime pursuant to PC12021(d)(2).  
☐ Notice of firearm prohibition given per PC12021. ☐ Federal weapons advisal given.

MISC. ☐ Stay \_\_\_\_\_ away from \_\_\_\_\_ ☐ Do not unlawfully enter the United States.  
☐ Register pursuant to ☐ HS11590 ☐ PC290 ☐ PC457.1. ☐ Do not take, hold or receive property of another without written consent of the owner.  
☐ PC666 - theft advisal given. ☐ All property impounded, seized, or held in custody in this case to be disposed of per possessing agency's policy

REFERRALS Report ☒ Forthwith ☐ by \_\_\_\_\_ to ☐ Assessment Unit ☐ Probation Dept. re: \_\_\_\_\_  
☒ Court Collections ☐ Revenue & Recovery ☐ Collection Agency and comply with additional conditions of probation imposed.  
DEFENDANT IS ORDERED TO APPEAR ON \_\_\_\_\_ AT \_\_\_\_\_ IN DEPT. \_\_\_\_\_ FOR:  
☐ Sentencing ☐ Restitution ☐ Execution of Custody ☐ C.O.P. Form ☐ Review regarding \_\_\_\_\_

OTHER x) Do not operate in any type of massage business in the City of Vista.

CUSTODY STATUS Defendant ☐ REMANDED to custody of Sheriff ☐ without bail ☐ with bail set at / increased to / reduced to \$ \_\_\_\_\_  
☐ REMAINS AT LIBERTY ☒ RELEASED: ☐ on bail previously posted ☐ on probation ☐ after booking ☐ OR/SOR ☐ same terms and conditions  
☐ to an authorized representative of: \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_  
☐ Previously ordered: ☐ 4<sup>th</sup> WAIVER ☐ continues ☐ deleted ☐ \_\_\_\_\_  
WARRANT ☐ Bench WARRANT ordered ☐ Bail set at \$ \_\_\_\_\_ ☐ No Bail ☐ ISSUED ON \_\_\_\_\_  
☐ Mandatory appearance ☐ Night service authorized ☐ Cash bail may be forfeited. ☐ HOLD issuance of warrant to DATE SET ABOVE.  
☐ Warrant previously ordered/issued ☐ remains outstanding ☐ rescinded ☐ RECALLED ON: \_\_\_\_\_  
BAIL is ☐ exonerated ☐ forfeited ☐ Fine from bail, refund balance. ☐ Declaration of non-collusion/ re-assumption of liability filed.  
☐ Bail forfeiture set aside, bond ☐ reinstated ☐ exonerated upon payment of court cost \$ \_\_\_\_\_ within 30 days ☐ cost waived  
☐ Bond # \_\_\_\_\_ Bond \$ \_\_\_\_\_ Bond Company \_\_\_\_\_

Date: \_\_\_\_\_ ATTEST A TRUE COPY, Clerk of the Superior Court by \_\_\_\_\_ Deputy  
Distribution by: me on \_\_\_\_\_ to: Jail ☐ Deft. Atty. ☐ Pros. ☐ Prob. ☐ R&R ☐ Interpreter ☐ Acct. ☐ Assessment ☐ Other: \_\_\_\_\_  
SDSC CRM 148 (Rev. 12/00) MISDEMEANOR - JUDGMENT MINUTES

Central Division East County Division North County Division South County Division Waivers: ☒ 1st ☐ 2nd ☐ 3rd ☐ 4th

PEOPLE vs. OT XIAO HSTATUS: OR \$                      ☐ BB ☐ CB (Y/N)  
CASE # CN296138 PROS. #                      DOB: 071156 BKG #                      CTS: 0 days CITE  
DATE: 11-04-11 AT 08:30 (DEPT. # 001) INTERP:                      ☐ Spanish ☐ Sworn ☐ Oath on File  
JUDGE/COMM/TEMP JUDGE: ADRIENNE A. ORFIELD ☐ STIP. FILED REPORTER:                       
CLERK: M. Rodriguez CSR # / COUNTER #: 2:20

CHARGE(S): 1) OTS 56.040(A) 2) OTS 56.070(P) 3) OTS 56.070(P) 4) OTS 56.070(B)  
5) OTS 56.070(F) 6) OTS 56.070(D) 7) MORE OTS 56.070(A) 8) 7TH DAY  
FUTURE DATES: TJ 12-05-11 8) OT 56.070 ☐ CONFIRMED ☒ VACATED me

Attorney for the People (DDA/DCA/DAG) ☐ Supervised Cert. Legal Intern T. MATTHEWS 21-26 50  
Attorney for Defendant (PD/APD/OAC/Retained/Counseling) ☐ Supervised Cert. Legal Intern  
DEFENDANT: ☐ PRESENT ☐ VIA AUDIO VIDEO ☐ SELF REPRESENTED ☐ NOT PRESENT ☐ NOT PRODUCED ☐ FAILED TO APPEAR

Case called for ☐ FTA ☐ Arraignment ☐ Bail Review ☒ Readiness/DWT ☐ Jury Trial ☐ Preliminary Examination ☐ Motion  
☐ DEJ ☐ Full ☐ Limited Protective Order Expires:                      Protected Party:                       
☐ Warrant Ordered/Issued on                      ☐ Held to today ☐ Cleared ☐ Outstanding.

CASE TRANSFERRED TO DEPT.                      TIME ESTIMATE:                       
Complaint amended ☐ by interlineation to read:  
☐ Amended ☐ Amendment to ☐ complaint filed ☐ charging ☐ adding ☐ VC23103 (a) pursuant to VC23103.5 ☐ VC22107, VC21658(a), PC647(f)  
☐ as INFRACTION(S) pursuant to PC17(d)(2). ☐ other:                       
☐ Defendant advised of and waives the right to a separate and conflict-free attorney / interpreter for this court appearance.  
☐ Defendant duly arraigned and advised of the constitutional and statutory rights as indicated on the reverse side of this minute order.\*  
☐ Acknowledgment of advisal of constitutional rights signed and filed. ☐ Defendant has received copy of complaint.  
☐ Defendant waives reading of complaint. ☐ Deft. states true name is                      ☐ on complaint [                      line]  
☐ DEFENDANT PLEADS NOT GUILTY and denies any priors/allegations/separate convictions alleged ☐ on amended complaint.  
☐ Defendant WAIVES: ☐ time for speedy trial ☐ 10 day/60 day statutory time for preliminary hearing ☐ personal presence ☐ per PC977  
☐ bail review ☐ jury trial ☐ preliminary hearing

COUNSEL ☐ MOTION FOR APPOINTED ATTORNEY ☐ Granted ☐ Public Defender ☐ Alternate Public Defender ☐ Office of Assigned Counsel  
Atty:                      ☐ Denied ☐ Referred to Near Indigent Panel ☐ Defendant to retain counsel.

CONVICTION ☐ Deft. is sworn and examined. ☐ Defendant withdraws any previously entered plea. OT 56.070  
DEFENDANT PLEADS: ☒ GUILTY ☐ NO CONTEST to: OT 56.070 OT 56.070 ☐ VC23152(a) / (b)  
☐ Admits                      separate conviction(s) alleged/                      allegation(s)  
☐ Charges contained in amended/amendment to complaint. ☐ VC23103(a) per 23103.5 ☐ as a lesser included offense of                       
☒ On motion of Court/People/Defendant remaining count(s) 1) 2) 3) 4) 5) 6) 7) 8) 9) 10) 11) 12) 13) 14) 15) 16) 17) 18) 19) 20) 21) 22) 23) 24) 25) 26) 27) 28) 29) 30) 31) 32) 33) 34) 35) 36) 37) 38) 39) 40) 41) 42) 43) 44) 45) 46) 47) 48) 49) 50) 51) 52) 53) 54) 55) 56) 57) 58) 59) 60) 61) 62) 63) 64) 65) 66) 67) 68) 69) 70) 71) 72) 73) 74) 75) 76) 77) 78) 79) 80) 81) 82) 83) 84) 85) 86) 87) 88) 89) 90) 91) 92) 93) 94) 95) 96) 97) 98) 99) 100) DISMISSED. Allegation(s)/Prior(s) remaining is/are STRICKEN ☐ FOJ                     

☐ Plea form executed and filed ☐ People vs. West ☐ BAC:                       
☐ Court finds a knowing and intelligent waiver of constitutional rights and factual basis for the plea.  
ADVISALS: ☐ Theft - PC666 ☐ DUI - VC23593  
WAIVERS: ☐ Arbuckle ☐ Blakely ☐ Cruz ☐ Harvey ☐ Appeal Rights ☐ Non-Bio. Evidence Disposal ☐ Time for sentencing, see JUDGMENT MINUTES.  
☐ PC1210 ☐ Drug Court ☐ accepted ☐ declined.  
☐ Stipulated bindover. ☐ Case certified as a general jurisdiction matter. ☐ Complaint deemed the Information.

MOTION for                      by ☐ People ☐ Defendant ☐ with ☐ without objection ☐ GRANTED ☐ DENIED.  
PC1000 ☐ Defendant's motion for ☐ reinstatement to ☐ PC1000 granted as to count(s)                     , for                      mo / yrs. ☐ New term  
☐ Time waived for sentencing ☐ S.D. Rescue Mission Program ☐ Enroll by                      Comply with all directions of Assessor.  
☐ \$                      DEJ Admin Fees (PC1001.16(a) and PC1001.90) ☐ Forthwith ☐ By                       
☐ Defendant has satisfactorily COMPLETED the DEJ Program, previously entered plea to count(s)                      set aside and charges dismissed.  
☐ Defendant has FAILED to satisfactorily perform in the DEJ Program. ☐ PC1000 set aside and any unpaid fees pertaining thereto deleted.  
☐ Court makes a finding of guilt to the charge(s) pled. ☐ Time waived for sentencing, see JUDGMENT.

REFERRALS Report ☐ forthwith ☐ by                      to ☐ Assessment Unit ☐ Probation Department ☐ Probation to interview.  
☐ Pre-sentence ☐ Mini ☐ Supplemental ☐ Psych. ☐ Limited re: Drugs / Alcohol / Domestic Violence / Anger Management / Restitution Report Ordered.  
☐ Pre-sentence report waived. ☐ Court Collections for payment of attorney fees \*\* \$                      ☐ Indigent as to attorney fees.  
\*\* The court finds that the defendant has the ability to repay the County of San Diego for the costs of court appointed attorney fees.

HEARINGS Set/continued on motion of ☐ People ☐ Defense ☐ Opposed ☐ Unopposed ☐ By Stipulation, ☐ Statutory time is WAIVED  
DEFENDANT IS ORDERED TO APPEAR for ☐                      on                      at                      in Dept.                       
☐ Re: Attorney                      at                      in Dept.                      ☐ Motion/PC1538.5                      at                      in Dept.                       
☐ Arraignment                      at                      in Dept.                      ☐ Jury / Court Trial                      at                      in Dept.                       
☐ Bail Review                      at                      in Dept.                      ☐ Sentencing                      at                      in Dept.                       
☐ Readiness/DWT                      at                      in Dept.                      ☐ Prob. Hrg. & Sent                      at                      in Dept.                       
☐ Prelim Exam                      at                      in Dept.                      ☐ DEJ ☐ Drug Ct                      at                      in Dept.                       
Time Estimate:                      hr/day Set with case(s):                      ☐ to trail for revocation

MENTAL HEALTH ☐ Proceedings suspended pursuant to PC1368. Mental competency examination on                      at                      by Forensic  
Psychiatry Clinic. Females - Room 1003, Central Division; Males - Central Detention Facility. Hearing on                      at                      in Dept.                      of the  
Central Division. ☐ The Sheriff is ordered to transport the defendant to and from the examination and hearing stated above.  
OTHER ☐ Verbal notice of license suspension (DL 310) signed. ☐ Fingerprint form filed.  
☐ Book & Release - Report on                      at                      to ☐ Central ☐ Vista ☐ Las Colinas Detention Facility.

CUSTODY STATUS Defendant ☐ REMANDED to custody of Sheriff ☐ without bail ☐ with bail set at / increased to / reduced to \$                       
☐ PC1275.1 HOLD. ☐ Pretrial Services Report Ordered re: SOR  
☐ REMAINS AT LIBERTY ☐ RELEASED: ☐ on bail previously posted. ☐ after booking ☐ DEJ ☐ OR ☐ SUPERVISED OR - comply with P.T.S. conditions  
☐ same terms and conditions ☐ to an authorized representative of:                      on                      at                       
☐ Release Conditions: ☐ Attend                      self-help migs. per week and submit proof at each court hearing. ☐ Abstain from alcohol.  
☐ Not use or possess any controlled substances without a valid prescription. ☐ Not possess narcotic paraphernalia.  
☐ Deft. waives 4th amendment rights and agrees to submit person, vehicle, place of residence, property, personal effects to search at any time with or without a  
warrant, and with or without reasonable cause, when required by a Probation Officer or other law enforcement officer ☐ until revoked. ☐ for the duration of  
deferred entry of judgment. ☐ Have no contact with / stay away from:                      ☐ Protective Order issued.  
☐ Previously ordered: ☐ 4th WAIVER ☐ continues ☐ deleted ☐ PROTECTIVE ORDER ☐ continues ☐ deleted.

WARRANT ☐ Arrest ☐ Bench ☐                      Warrant ordered ☐ Bail set at \$                      ☐ No Bail ☐ ISSUED ON:                       
☐ Schedule for hearing. ☐ Mandatory appearance. ☐ Night service authorized. ☐ Cash bail may be forfeited. ☐ HOLD issuance to DATE SET ABOVE.  
☐ Warrant previously ordered/issued ☐ remains outstanding ☐ rescinded ☐ RECALLED ON:                       
☐ Affidavit requested. Due by:                     

BAIL is ☐ exonerated ☐ forfeited ☐ Fine from bail, refund balance. ☐ Declaration of non-collusion/ reassumption of liability filed.  
☐ Bail forfeiture is set aside and bond is ☐ reinstated ☐ exonerated ☐ upon payment of court cost \$                      within 30 days ☐ cost waived  
☐ Bond #:                      Bond \$                      Bond Co.                     

Date:                      ATTEST A TRUE COPY, Clerk of the Superior Court by                      Deputy  
Distribution by:                      on                      to: Jail ☐ Deft. ☐ Atty. ☐ Pros. ☐ Prob. ☐ R&R ☐ Interpreter ☐ Acct. ☐ Assessment ☐ Other:



Defendant	XIAO HONG QT	Case Number	CN296138
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### ATTORNEY'S STATEMENT

I, the attorney for the defendant in the above-entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges and possible defenses with the defendant, and the consequences of this plea, including any immigration consequences. I personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge his/her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Dated: 11/4/11 Thomas P. Matthews [Signature]  
 (Print Name) Attorney for Defendant (Signature)  
 (Circle one: PD / APD / OAC / RETAINED)

### INTERPRETER'S STATEMENT (If Applicable)

I, the interpreter in this proceeding, having been duly sworn, truly translated this form, and any attached addendum, and all the questions therein to the defendant in the \_\_\_\_\_ language. The defendant indicated understanding of the contents of the form and then initialed and signed the form and any attached addendum.

Dated: \_\_\_\_\_  
 (Print Name) Court Interpreter (Signature)

### PROSECUTOR'S STATEMENT

The People of the State of California, plaintiff in the above-entitled criminal case, by and through its attorney concurs with the defendant's plea of Guilty/No Contest as set forth above.

Dated: Nov 4, 2011 Marcus A. Groun [Signature]  
 (Print Name) Deputy District Attorney/Deputy City Attorney (Signature)

### COURT'S FINDING AND ORDER

The Court, having questioned the defendant/defendant's attorney concerning the defendant's plea of Guilty/No Contest and admissions of the prior convictions and allegations, if any, finds that: The defendant understands and voluntarily and intelligently waives his/her constitutional rights; the defendant's plea and admissions are freely and voluntarily made; the defendant understands the nature of the charges and the consequences of the plea and admissions; and there is a factual basis for same. The Court accepts the defendant's plea and admissions, and the defendant is convicted thereby.

Dated: 11/4/11 A. Orfield  
 Judge/Commissioner/Referee of the Superior Court  
**ADRIENNE A. ORFIELD**



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Exhibit F

Citation Issued by Board dated April 26, 2011



## ACUPUNCTURE BOARD

444 N. 3<sup>rd</sup> Street, Suite 260, Sacramento, CA 95811

P (916) 445-3021 F (916) 445-3015 www.acupuncture.ca.gov



Name: Xiao Hong Qi, AC 11857

Date Issued: April 26, 2011

Complaint #: 1A-2010-84

**CITATION****Findings of Fact****I**

Section 1399.467 of Title 16, California Code of Regulations authorizes the executive officer of the California Acupuncture Board (Board) to issue citations containing orders of abatement and/or administrative fines pursuant to Business and Professions Code section 125.9 for persons performing services for which a license as an acupuncturist is required under the Acupuncture Licensure Act.

**II**

Section 4955 defines the action the Board may take against or impose upon the license of an acupuncturist who is guilty of unprofessional conduct.

**III**

The Board's records reveal that on or about October 16, 2007, cited person, Xiao Hong Qi, was issued acupuncture license number AC-11857. This license is valid until July 31, 2011. This license is current.

**IV**

During an investigation conducted by the Board, it was revealed that violations occurred on cited person's business premises at S.E.N. Health Station on 520 N. Brookhurst St., #229, Anaheim, CA. The City of Anaheim Code Enforcement along with the Anaheim Police Department entered the business on October 26, 2007, for the inspection of unpermitted massage technicians performing massage in the city of Anaheim. During the inspection, the investigator solicited cited person for a half hour massage. Cited person agreed to do the massage in exchange for \$40. When the investigator asked for the City's required massage technician permit, operator's permit, and business license, cited person could not produce any such items. The investigator discovered that the posted business license for S.E.N Health Station listed the business as an acupuncture clinic with only one employee. However, he did not observe any acupuncture supplies, needles, biohazard container, antiseptic wipes, gloves, or any patient files that would be consistent with an acupuncture clinic. The business license did not allow massage services. Cited person was charged with two misdemeanors: Anaheim Municipal Code (AMC) sections 4.29.030 – operator's license required and 4.29.060 – massage technician permit required, and one infraction, section 3.04.050 – business license required. Cited person plead guilty to the infraction and was convicted on October 16, 2008.

A subsequent inspection was performed on January 16, 2009, after an inappropriate ad for massage at the same location was found on Craigslist. The investigator requested a thirty minute massage from cited person which she charged \$40 for. It was observed that the same

municipal code violations from 2007 still existed. Cited person was charged with two misdemeanors: AMC sections 4.29.030 – operator's license required and 4.29.060 – massage technician permit required, and one infraction, section 3.04.050 – business license required. Cited person plead guilty to AMC 4.29.060 (misdemeanor) and was convicted on July 2, 2009.

During this same inspection, it was discovered that cited person is employed by an unlicensed individual as an independent contractor; however, acupuncturists may only be employed by acupuncturists, physician and surgeons, podiatrists, dentists, or a professional healing arts corporation. It is considered unprofessional conduct for a violation of law to occur on cited person's business premises. In addition, the Board's records reveal that cited person failed to register the address of S.E.N Health Station.

## **Determination of Issues**

### **Cause of Action**

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Violations exist pursuant to Business and Professions Code Sections 4955 (j), violation of any law or local ordinance on an acupuncturist's business premises that is substantially related to the qualifications, functions, or duties of an acupuncturist and 4961 (a), failure to register his or her place of practice. A cause for action thereby exists.

### **Penalty**

In compliance with Business and Professions Code section 125.9 and California Code of Regulations section 1399.465, it is determined that:

I

Cited person be cited for violations in the amount of \$1,500 based upon a determination that the above described facts constitutes a violation of Business and Professions Code, Sections 4955 (j) and 4961 (a). Citation shall be paid 30 days from receipt of this Citation.

### **Order of Abatement**

The Board hereby orders cited person to cease and desist from violating Business and Professions Code section 4955 (j) and 4961 (a) by complying with all federal, state, and local laws that govern her practice and registering the S.E.N Health Station address. Additionally, cited person must discontinue her employee/employer relationship with the S.E.N Health Station's owner. Cited person is only permitted to rent office space. Compliance with the order of abatement must be provided 30 days from receipt by cited person.

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Exhibit G

Declaration of Costs of Deputy Attorney General Lori Forcucci

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
3 SAMUEL K. HAMMOND  
Deputy Attorney General  
4 State Bar No. 141135  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2083  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9 **BEFORE THE**  
10 **RESPIRATORY CARE BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1A 2011 103

13 **XIAO HONG QI, A.C.**  
14 **913 E. Vista Way**  
**Vista, CA 92084,**

**COST DECLARATION OF DEPUTY**  
**ATTORNEY GENERAL LORI JEAN**  
**FORCUCCI IN SUPPORT OF COST**  
**RECOVERY**

15 **Acupuncturist License No. AC 11857**

16 Respondent.

17  
18 I, Lori J. Forcucci, declare as follows:

- 19 1. I have personal knowledge with respect to the facts set forth below.
- 20 2. I am a Deputy Attorney General employed by the Department of Justice, Office of the  
21 Attorney General, State of California. I am assigned to the Health Quality Enforcement Section  
22 in the Civil Division of the Office of the Attorney General. I am the Deputy Attorney General  
23 (DAG) with primary responsibility for the prosecution of the above-entitled case before the  
24 Respiratory Care Board of California and make this declaration in my official capacity as such  
25 and not otherwise.
- 26 3. On January 17, 2012, I was assigned to this matter.
- 27 4. I am familiar with the legal time reporting system used by the Attorney General's  
28 Office to charge client agencies for the costs of enforcement and prosecution. Whenever work is

performed on a case it is the duty of the Deputy Attorney General or Sr. Legal Analyst performing their work to record the time to be billed for that work in the Attorney General's Office legal time reporting system. Time is billed in quarter-hour (.25), half-hour (.50), three-quarter-hour (.75), one hour (1.0), multiple hour and/or multiple hour and partial hour increments.

5. Based upon my review of entries in the Attorney General's legal time reporting system, I am informed and believe that the Attorney General's Office has billed, or will bill, the Acupuncture Board of California the following amounts as the costs of enforcement and prosecution of this matter:

<u>Employee/Position</u>	<u># of Hrs</u>	<u>Hr/Rate</u>	<u>Total Charge</u>
<u>FY 2011-2012</u>			
Lori Jean Forcucci, DAG	7.75	\$170.00	\$1,317.50
Sanford Feldman, DAG	.25	\$170.00	42.50
<u>FY 2012-2013</u>			
Lori Jean Forcucci, DAG	4.00	\$170.00	\$ 680.00
Julie Velarde Neal, Sr. Legal Analyst	3.00	\$120.00	\$ 360.00
<u>FY 2013-2014</u>			
Lori Jean Forcucci, DAG	.50	\$170.00	\$ 85.00
Julie Velarde Neal, Sr. Legal Analyst	1.50	\$120.00	\$ 180.00
		Total:	\$2,665.00

6. The activities that have been performed in the handling of this matter include, but are not limited to, review of the investigative materials, pleading and document preparation, producing discovery, interviewing a witness and preparing for the administrative hearing.

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1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct to the best of my knowledge or information and belief.

3 Executed on 10.16, 2013, at San Diego, California

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6 LORI JEAN FORCUCCI  
7 Deputy Attorney General

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Declarant

**DECLARATION OF SERVICE BY MAIL**

In the Matter of the Accusation filed against:

XIAO HONG QI

Case No. 1A-2011-103

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1747 N. Market Blvd., Ste. 180, Sacramento, CA 95834. I served a true copy of the attached:

Default Decision and Order

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

NAME and ADDRESS

CERTIFIED MAIL NO.

Xiao Hong Qi  
913 E. Vista Way  
Vista, CA 92084

7011 2970 0000 0657 2210

Lori Jean Forcucci, DAG  
California Department of Justice  
Office of the Attorney General/HQE  
110 West "A" Street, Ste. 1100  
San Diego, CA 92101

regular mail

Thomas Lazar, SDAG  
California Department of Justice  
Office of the Attorney General/HQE  
110 West "A" Street, Ste. 1100  
San Diego, CA 92101

regular mail

Each said envelope was, on March 3, 2014, sealed and deposited in the U.S. mail box at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for attempt at service on Respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 3, 2014, at Sacramento, California.



DECLARANT